

TENNESSEE STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE:	Highway Sixty Four LLC)	
	Dist. B01, Block 58, Parcel 00664)	Shelby County
	Commercial Property)	
	Tax Year 2005)	
	Chrysler Realty Company LLC)	
	Dist. B01, Block 58, Parcel 00180)	
	Commercial Property)	
	Tax Year 2005)	

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

Parcel 00664

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$4,116,800	\$3,283,700	\$7,400,500	\$2,960,200

Parcel 00180

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$3,215,800	\$1,845,000	\$5,060,800	\$2,024,320

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on September 21, 2006 in Memphis, Tennessee. In attendance at the hearing were registered agent Patrick W. Musgrave and Shelby County Property Assessor's representative Sandra Scoggin, TCA.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of automobile dealerships located at 2982 N. Germantown Road (parcel 00664) and 3020 N. Germantown Road (parcel 00180) in Bartlett, Tennessee. Parcels 00664 and 00180 contain 11.81 and 9.228 acres respectively.

The parties stipulated that the cost approach constitutes the best indicator of value and that the improvements on parcels 00664 and 00180 should be valued at \$3,133,000 and \$2,074,500 respectively. Thus, the only issue before the administrative judge concerns land value.

The taxpayer contended that parcels 00664 and 00180 should be appraised at \$5,598,100 and \$3,841,600 respectively. This reflects contended land values of \$2,465,100 or \$4.80 per square foot for parcel 00664 and \$1,767,100 or \$4.40 per square foot for parcel

00180. In support of this position, nine comparable sales were introduced into evidence. Mr. Musgrave asserted that the comparable sales support his contended values after being adjusted for time, location, configuration and size. As will be discussed below, the primary area of disagreement between the parties concerned Mr. Musgrave's contention that an adjustment of approximately 25% must be made for location moves on N. Germantown Road from Highway 70 toward Highway 64.

The assessor contended that the current land appraisals are correct. Given the stipulated improvement values summarized above, Ms. Scoggin maintained that parcels 00664 and 00180 should be appraised at \$7,249,800 and \$5,290,300 respectively. In support of this position, four comparable sales were introduced into evidence. In addition, Ms. Scoggin took issue with both Mr. Musgrave's adjustment for location and the use of sales that are wooded or presently improved with residences.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued as contended by the assessor of property.

Since the taxpayer is appealing from the determination of the Shelby County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge would normally accord Mr. Musgrave's analysis greater weight for two reasons. First, unlike Ms. Scoggin, Mr. Musgrave adjusted his sales. Second, it would seem that adjustments could easily be made to account for the cost associated with clearing wooded tracts and/or razing residences. Indeed, the administrative judge would assume that some of the sales relied on by Ms. Scoggin were wooded at the time of sale.

Notwithstanding the foregoing, the administrative judge finds that Mr. Musgrave's analysis cannot be adopted for several reasons. Most importantly, the administrative judge finds that January 1, 2005 constitutes the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a). The administrative judge finds that five of the comparables relied on by Mr. Musgrave sold in 2000 (sales #2, 5, 6, 7 & 9) and one in 2001 (sale #4).

The administrative judge finds that 2000 and 2001 sales lack probative value initially because of their remoteness in time. Moreover, the administrative judge finds that Wolfchase Galleria did not open until 1997. The administrative judge finds that the market

was fundamentally different on January 1, 2005 due to ongoing development in the immediate area.

The administrative judge finds that sale #1 is located south of I-40 and not comparable in location. Indeed, Mr. Musgrave adjusted that sale by 40% for location alone.

The administrative judge finds that the two remaining comparables (sales #3 & 8) cannot provide a basis of valuation standing alone. Furthermore, the administrative judge finds that those two sales are significantly smaller than the subject parcels (2.29 and 5.6 acres). Thus, the administrative judge finds that additional evidence would be necessary to reach a reliable conclusion of value.

ORDER

It is therefore ORDERED that the following values and assessments be adopted for tax year 2005:

Parcel 00664

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$4,116,800	\$3,133,000	\$7,249,800	\$2,899,920

Parcel 00180

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$3,215,800	\$2,074,500	\$5,290,300	\$2,116,120

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:


1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which

relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 10th day of October, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Patrick W. Musgrave
Tameaka Stanton-Riley, Appeals Manager